

Robert S. Apgood
CarpeLaw PLLC
2400 NW 80th Street #130
Seattle, WA 98117
Telephone: 206-624-2379
Facsimile: 206-784-6305
rob@carpelaw.com

John Jeffrey Carter
329 Flume Street
Chico, CA 95927-3606
Telephone: 530-342-6196
Facsimile: 530 342-6195

Attorneys for Defendant Ada Mae Woffinden *nee* Johnson

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

VIOLET BLUE, an individual,

Plaintiff/Counterclaim Defendant,

vs.

ADA MAE JOHNSON et al.,

Defendant/Counterclaim Plaintiff.

Case No.: C 07-5370 SI

**DECLARATION OF ROBERT S.
APGOOD IN SUPPORT OF MOTION
FOR AN ORDER COMPELLING
SPECIFIC PERFORMANCE OF
PLAINTIFF IN SETTLEMENT
AGREEMENT**

Hon. Elizabeth D. Laporte
Courtroom E, 15th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

COMES NOW Robert S. Apgood and upon his oath does declare and state as follows:

1. I am at least eighteen (18) years of age and, if so required, can and will testify to the following from personal knowledge;

1 2. I am an attorney representing Defendant Ada Mae Woffinden *nee* Johnson in the above-
2 captioned matter;

3 3. Attached hereto as Exhibit “A,” and by this reference made a part hereof, is a true and
4 correct copy of an electronic mail exchange between your declarant and Ms. Colette Vogele, counsel
5 for Plaintiff Violet Blue, that transpired on June 10 – 12, 2008;

6 4. In Exhibit “A,” Ms. Vogele states “Let me be clear: there is no settlement.”;

7 5. Attached hereto as Exhibit “B,” and by this reference made a part hereof, is a true and
8 correct copy of an electronic mail your declarant received from Ms. Colette Vogele on June 17, 2008;

9 6. In Exhibit “B,” Plaintiff Blue, by and through her agent Ms. Vogele, invites Defendant
10 Woffinden to make an offer of settlement, specifically including “the transfer of the domain”
11 (violetblue.org) to Plaintiff Blue;

12 7. Attached hereto as Exhibit “C,” and by this reference made a part hereof, is a true and
13 correct copy of an electronic mail message your declarant sent to Ms. Colette Vogele in response to
14 her message found in Exhibit “B”;

15 8. In Exhibit “C,” your declarant responded to Plaintiff Blue’s request by supplying dates
16 certain and transfer codes for (a) transfer of the “violetblue.org” domain to Plaintiff, (b) notification
17 that IRS form 4506T (the form the IRS requires in lieu of subpoenae) had been submitted to the IRS,
18 and (c) notification that the records sought in Plaintiff’s written discovery requests had already been
19 sent to Plaintiff’s counsel;

20 9. Also in Exhibit “C” is Defendant Woffinden’s offer to Plaintiff to settle the dispute “on
21 the terms agreed in the settlement conference”;

22 10. Attached hereto as Exhibit “D,” and by this reference made a part hereof, is a true and
23 correct copy of an electronic mail your declarant received from Mr. Benjamin Costa on June 24, 2008;

24 11. In that message, Mr. Costa was expressing concern that the finalization of the transfer
25 of the “violetblue.org” domain was being impeded by Defendant Woffinden’s failure to respond to a
26 transfer approval request;

1 12. At all times when your declarant communicated with Mr. Costa regarding the transfer
2 of the "violetblue.org" domain, your declarant was led to believe, and did believe, that Plaintiff Violet
3 Blue had accepted Defendant Woffinden's offer to settle the dispute "on the terms agreed in the
4 settlement conference" as was offered in Exhibit "C";

5 13. At some time on or after June 24, 2008, the "violetblue.org" domain was transferred
6 into the possession, custody and control of Plaintiff and/or her agent, Ms. Colette Vogele as evidenced
7 in the "Whois"¹ report attached hereto as Exhibit "E" and by this reference, thereby made a part
8 hereof;

9 14. Prior to Plaintiff Blue or her agent transferring the "violetblue.org" domain into the
10 possession, custody and control of Ms. Vogele, the domain was owned exclusively by Defendant
11 Woffinden;

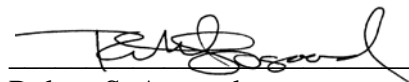
12 15. At no time between the time Ms. Woffinden made her offer to Plaintiff Blue to settle
13 the dispute and the time that Plaintiff Blue and/or her agent transferred the "violetblue.org" domain
14 into the possession, custody and control of Plaintiff Blue and/or her agent, Ms. Vogele, did Plaintiff
15 Blue either accept or reject, expressly or implicitly, Defendant Woffinden's offer to settle as was
16 communicated to Plaintiff Blue in Exhibit "C."

17 FURTHER YOUR DECLARANT SAYETH NAUGHT.

18 EXECUTED THIS 10th day of September 2008 at Seattle, Washington.

19 Respectfully submitted,

20 CARPELAW PLLC

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22 Robert S. Apgood
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¹ "Whois" is an Internet-based service that accesses the authoritative database regulated by ICANN and which stores information on domains and Internet Protocol address.